

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

CONVOLVE, INC. §
§
V. § Civil Action No. 2:08-CV-244 (CE)
§
DELL INC., §
WESTERN DIGITAL CORPORATION, §
HITACHI GLOBAL STORAGE §
TECHNOLOGIES, INC. and HITACHI LTD. §

**July 22, 2011
Jury Trial Day Five**

OPEN: 8:06 a.m.

ADJOURN: 4:00 p.m.

ATTORNEYS FOR PLAINTIFF: James Anderson
Eric Albritton
Marla Butler
Stephen Edwards
Tara Sharp
Elizabeth Thomas
Bryan Vogel

ATTORNEYS FOR DEFENDANTS: Deron Dacus
Eric Findlay
Roger Fulghum
Jeff Homrig
Gene Schaerr
Melissa Smith
Kimball Anderson
Doug Lumish
Michael Smith
Bruce Wessel
David Schwarz
Garland Kelley
Joseph Lee
Richard Birnholz
Tom Werner
Anna Halsey
Chris Ponder

LAW CLERK: Katrina Maher

COURT REPORTER: Shelly Holmes, CSR

COURTROOM DEPUTY: Jan Lockhart

8:06 a.m. Court opened. Hearing outside the presence of the jury regarding Defendants' Judgments as a Matter of Law. Mr. Lumish argued on behalf of Hitachi. Mr. Anderson argued on behalf of Plaintiff.

8:13 a.m. Mr. Fulghum presented Judgment as a Matter of Law as to Dell. Mr. Anderson argued on behalf of Plaintiff. The Court granted the motion.

Next, Mr. Fulghum argued Judgment as a Matter of Law as to no contributory infringement. The Court denied the motion.

8:17 a.m. Mr. Fulghum argued Judgment as a Matter of Law as to no inducement of infringement. The Court overruled the motion.

Mr. Fulghum requested clarification on the issue re shaped input signal.

8:26 a.m. Court made further rulings and carried ruling. Court adjourned.

8:37 a.m. Mr. Kimball Anderson called Dr. Michael Mitoma. Dr. Mitoma was sworn and examined under oath.

8:57 a.m. Bench conference.

8:59 a.m. Court excused jury. Short recess.

9:06 a.m. Court reconvened. Hearing outside the presence of the jury.

9:16 a.m. Mr. Vogel conducted cross examination of Dr. Mitoma.

9:17 a.m. The parties passed the witness. Mr. Lumish called Daniel Colegrove to testify. Mr. Colegrove was sworn and examined under oath.

9:54 a.m. Mr Anderson conducted cross examination of Mr. Colegrove.

10:04 a.m. Parties passed the witness. Jury excused for morning break.

10:27 a.m. Court reconvened. Hearing outside the presence of the jury regarding witnesses to be presented by Mr. Findlay.

10:28 a.m. Mr. Findlay called Katsuhiro Tsuneta. Mr. Tsuneta's testimony to be translated by an interpreter. Mr. Tsuneta and the interpreter were sworn.

10:43 a.m. Bench conference.

10:44 a.m. Mr. Findlay continued his direct examination of Mr. Tsuneta.

10:46 a.m. The parties passed the witness. Mr. Tsuneta was excused.

10:47 a.m. Mr. Findlay called Satoshi Yamamoto to testify. Mr. Yamamoto was sworn and examined under oath.

11:04 a.m. Butler Cross examination of Mr. Yamamoto.

11:06 a.m. The parties passed the witness.

11:07 a.m. Mr. Wessel called Brad Masters to testify. Mr. Masters was sworn and examined under oath.

11:37 a.m. Mr. Vogel conducted cross examination of Mr. Masters.

11:38 a.m. The parties passed the witness. Defendant presented video depositions of Serge Mirabeau, Ava Ostrowski, Kenneth Pasch and Mark Tanquary.

12:00 p.m. Lunch recess.

1:05 p.m. Court opened; bench conference held re Mr. Collins (corporate representative of Hitachi) excused.

1:06 p.m. Mr. Homrig called Lee McKenzie to testify. Mr. McKenzie was sworn and examined under oath.

1:51 p.m. Ms. Butler conducted cross examination of Mr. McKenzie.

2:09 p.m. Mr. Homrig conducted re-direct examination of Mr. McKenzie.

2:13 p.m. The parties passed the witness. Mr. Homrig called Mr Randall Hampshire to testify. Mr. Hampshire was sworn and examined under oath.

2:24 p.m. Ms. Butler conducted cross examination of Mr. Hampshire.

2:26 p.m. Mr. Homrig conducted re-direct examination of Mr. Hampshire.

2:27 p.m. The parties passed the witness. Mr. Kelly called John Levy to testify. Mr. Levy was previously sworn and examined under oath.

2:44 p.m. Parties excused the witness. Afternoon recess.

3:00 p.m. Hearing outside the presence of the jury re Dr. Buckman. Ms. Butler argued on behalf of Plaintiff. Mr. Fulghum argued on behalf of the Defendant. Court ruled.

3:03 p.m. Jury returned to courtroom.

3:04 p.m. Mr. Fulghum presented Stuart Landow by video deposition.

3:25 p.m. Mr. Fulghum called Dr. Bruce Buckman to testify. Dr. Buckman was previously sworn and was examined under oath.

3:57 p.m . Jury excused

4:00 p.m. Court adjourned.